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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,994	04/13/2004	Yuji Ota	09657/0200614-US0	5002
7278	7590	04/12/2007	EXAMINER	
DARBY & DARBY P.C.			HOEY, ALISSA L	
P. O. BOX 5257				
NEW YORK, NY 10150-5257			ART UNIT	PAPER NUMBER
			3765	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/823,994

**Applicant(s)**

OTA ET AL.

**Examiner**

Alissa L. Hoey

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 5,7,9-14,17-27,31,33,34,36 and 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8, 15, 16, 28, 29, 30, 32 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1/30/06, 4/13/04, 11/05/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 5, 7, 17, 20, 22-24, 30, 33, 36 and 37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected embodiments of the invention. If a generic independent claim is found to be allowable the non-elected claims will be brought back into the case. The arguments are detailing why a restriction is improper, but an election of species requirement has been issued, not a restriction requirement.

*Applicant elected figures 3 and 4, the claims indicated above do not all read on figures 3 and 4. The claims that read on figures 3 and 4 are as follows: 1-4, 6, 8, 15, 16, 28, 29, 30, 32 and 35.*

*Applicant elected claims 31 and 34 to go with figures 3 and 4.*

*Claim 31 requires "an intermediate elastic band member extending obliquely from a middle portion of the front thigh elastic band member to an inner lower portion of the thigh leg member; an intermediate elastic band member extending obliquely from a middle portion of the front thigh elastic band member to an inner upper portion of the thigh leg member", which is not shown in figures 3 or 4.*

*Claim 34 requires "a back crus elastic band member provided substantially at a back side of the crus leg member, said back crus elastic band member extending obliquely from an upper back portion to a lower back portion of said crus leg member," which is not shown in figures 3 or 4.*

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Therefore claims 1-4, 6, 8, 15, 16, 28, 29, 30, 32 and 35 have been examined below as drawn to elected figures 3 and 4. Claims 5, 7, 9-14, 17-27, 31, 33, 34, 36 and 37 are withdrawn at this time.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6, 8, 15, 16, 28, 29, 30, 32 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujii et al. (US 2001-192903).

In regard to claim 1, Fujii et al. teaches a pants garment comprising left and right thigh leg members for covering the left and right thigh areas of the wearer (figures 22-24). Each thigh leg member independently comprising a first thigh stretchable portion and a second thigh stretchable portion (figures 22-24). The second thigh stretchable portions having a greater tightening force for applying greater pressure than the first thigh stretchable portions (1, 1a, 5, 5a). A front thigh elastic band member provided substantially at a front side of each of the thigh leg members (1a, 5). The front thigh elastic band member extending obliquely from an upper front portion to a lower front portion of each thigh leg member (figure 22). A back thigh elastic band member (1, 5a)

provided substantially at a back side of each of the thigh leg members and the back thigh elastic band member extending obliquely from an upper back portion to a lower back portion of each thigh leg member (figure 24).

In regard to claim 2, Fujii et al. teaches at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member and the back thigh elastic band member inclined in opposite directions (see bands 5a, 1a).

In regard to claim 3, Fujii et al. teaches at least either one of the left thigh leg members or the right thigh leg members having the front thigh elastic band member and the back thigh elastic band member inclined in the same direction (see bands 5, 1).

In regard to claim 4, Fujii et al. teaches each thigh leg member, the front thigh elastic band member and the back thigh elastic band member meet at least at an inner lower portion of the thigh leg member (see figures 22 and 24, bands 1a and 5a).

In regard to claim 6, Fujii et al. teaches at least either one of the left thigh leg member or the right thigh leg member has the front thigh elastic band member extending to a position corresponding to the left or right greater trochanter of a wearer, respectively (see figure 23, identifiers 3, 1a, 1, 5 and 5a).

In regard to claim 8, Fujii et al. teaches at least either one of the left thigh leg member or the right thigh leg member having the front thigh elastic band member extending from an outer upper portion to an inner lower portion of the left or right thigh leg member, respectively (figure 22, identifier 1a).

In regard to claim 15, Fujii et al. teaches the back thigh elastic band member extending from an inner upper portion to an outer lower portion of each thigh leg member (figure 24, identifier 1).

In regard to claim 16, Fujii et al. teaches the back thigh elastic band member extends from an outer upper portion to an inner lower portion of each thigh leg member (figure 24, identifier 5a).

In regard to claim 28, Fujii et al. teaches the front thigh elastic band member extending from the lower part of the inside of the corresponding thigh to the corresponding greater trochanter via the upper part of the front surface of the corresponding thigh and, wherein the front thigh elastic band member is curved in an indented shape towards the upper part of the corresponding thigh (figure 22 and 23, identifier 1a, 1).

In regard to claim 29, Fujii et al. teaches a garment for covering at least part of the lower half of a body comprising a band-like pressure portion at least having at a front side portion corresponding to the front side of a thigh (figure 22), a thigh front side pressure portion formed obliquely from above to below the front side portion (1a). A rear side portion (figure 24) corresponding to the rear side of the thigh, a thigh rear side pressure portion formed obliquely from above to below the rear side portion (5a).

In regard to claim 30, Fujii et al. teaches a garment with a crotch for covering at least part of a lower half of a body. A band-like pressure portion, having a front side portion corresponding to a front side of a crus (figure 22). A crus front side pressure portion formed obliquely from above to below the front side portion (1a). A rear side

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portion corresponding to a rear side of the crus (figure 24). The crus rear side pressure portion formed obliquely from above to below the rear side portion (5a).

In regard to claim 32, Fujii et al. teaches the second thigh stretchable portion independently further comprise a second back thigh elastic band member (5a) extending from an outer portion to an inner portion of the thigh leg member such that the first and second back thigh elastic bands (5a, 1) on the thigh member cross each other (see figure 24).

In regard to claim 35, Fujii et al. teaches left and right pelvic members attached to the thigh members for covering the right and left pelvic areas of a wearer (figure 22, identifier 6).

### ***Conclusion***

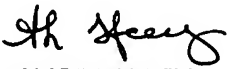
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and can be found cited in PTO-892 form submitted herewith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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